

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application : Yuehui Zhou et al.
Serial No. : 10/521,973
Filed : January 21, 2005
For : PHOSPHONIUM AND IMIDAZOLIUM SALTS
AND METHODS OF THEIR PREPARATION
Examiner :
Attorney Docket : 102699-102
Group Art Unit :
Confirmation No. : 7575
Customer No. : 27267
* * * * *

PETITION UNDER 37 C.F.R. §1.47(a)

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

1. The present U.S. Application Serial No. 10/521,973 was filed on January 21, 2005 without a signed Oath and Declaration, and a Notification to File Missing Requirements was mailed from the USPTO on July 11, 2005 requesting that Applicants submit a signed Oath and Declaration to complete the filing requirements.
2. In response to the Notification to File Missing Requirements, Applicants submit herewith an Oath and Declaration signed by inventors Allan J. Robertson, John H. Hillhouse, and Douglas Baumann. The Oath and Declaration is not signed by inventor Yuehui Zhou.
3. After diligent effort, co-inventors Allan J. Robertson, John H. Hillhouse, and Douglas Baumann submit that inventor Yuehui Zhou cannot be found or reached to execute the Oath and

Declaration. Accordingly, inventors Allan J. Robertson, John H. Hillhouse, and Douglas Baumann hereby petition the Commissioner to make Application for patent on behalf of themselves and nonsigning inventor Yuehui Zhou. As the named inventors, inventors Allan J. Robertson, John H. Hillhouse, and Douglas Baumann submit that they have a sufficient proprietary interest in the application to justify that the Office accept an Oath and Declaration that omits the signature of inventor Zhou, and that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. As required by 37 C.F.R. §1.47(a), proof of the pertinent facts surrounding the unsuccessful attempts to locate inventor Yuehui Zhou are described below, along with supporting documentation attached as Exhibits.

4. At the time the invention was made, inventor Yuehui Zhou was an employee of Cytec Canada, Inc., a subsidiary of Cytec Industries, Inc. based in the United States. Inventor Yuehui Zhou's employment with Cytec Canada, Inc. was terminated on September 30, 2003.

5. With respect to the present invention, Canadian patent application No. 2,398,682 was filed August 16, 2002 naming Yuehui "Joey" Zhou, Allan J. Robertson, John H. Hillhouse, and Douglas Baumann as inventors. PCT Application No. PCT/CA03/01189 was filed August 8, 2003 and claimed priority to the earlier-filed Canadian application. The present application was filed under 35 USC §371 on January 21, 2005 as a U.S. National Phase application from the PCT application. The PCT and U.S. National Phase applications also name Yuehui Zhou, Allan J. Robertson, John H. Hillhouse, and Douglas Baumann as inventors.

6. On October 18, 2004, Donato Nucciarone, Manager of the Phosphine Technical Center of Cytec Industries in Canada and Dr. Zhou's supervisor, sent to inventor Yuehui Zhou assignment documents for the original Canadian application to his last known address (#9 8228 Gateway Blvd., Edmonton, Alberta, Canada, T6E 4B2). Delivery of these documents was to be made by Purolator Courier. However, as Dr. Nucciarone indicated in his letter of October 29, 2004 to Ms. Mimi Hanzlik of Cytec Industries, Inc. in the United States, attempts to obtain the signature of inventor Zhou on those documents were unsuccessful because inventor Zhou was not available to receive and sign for the package (Exhibit A).

7. On November 17, 2004, Mimi Hanzlik of Cytec Industries, Inc. sent an email to inventor Yuehui Zhou to his last known email address (yuehuizhou@hotmail.com) indicating that she had documents that required his signature (Exhibit B). However, Ms. Hanzlik received no response from inventor Zhou.

8. On November 22, 2004, Ms. Hanzlik attempted to telephone inventor Zhou at his last known telephone number (416-497-9430) but received no answer and left a message (Exhibit C). Also on November 22, 2004, Ms. Hanzlik again emailed inventor Zhou to ask him if his address was 305A Roncesvalles Avenue, Toronto, Ontario, Canada, and asked him to contact her (Exhibit C). Ms. Hanzlik received no response from her telephone call or email.

9. Between November 22, 2004 and December 20, 2004 Ms. Hanzlik made further attempts to reach inventor Zhou by telephone. None of those attempts were successful. In an email dated December 20, 2004, Ms. Hanzlik notes to inventor Allan Robertson her unsuccessful attempts to reach inventor Zhou.

10. On September 9, 2005, the undersigned attorney made two attempts contact inventor Zhou at the telephone number listed above (416-497-9430). However, these attempts were unsuccessful.

11. In light of the above facts surrounding the numerous unsuccessful attempts to contact inventor Zhou, inventors Allan J. Robertson, John H. Hillhouse, and Douglas Baumann respectfully request that the Commissioner make the present Application for patent on behalf of themselves and nonsigning inventor Yuehui Zhou.

12. As indicated on the enclosed Oath, the last known address of Yuehui Zhou is as follows:

Yuehui Zhou
6305 Dunn Street Apt.112
Niagara Falls, Ontario
L2G7T9
Canada

13. The required fee pursuant to Rule 1.17(h) of \$130, and any other fees associated with this Petition, should be charged to Deposit Account No. 03-0483.

14. The undersigned attorney submits that he is filing this petition under 37 C.F.R. §1.34 in a representative capacity. The undersigned attorney's name, registration number, and signature appear below.

Respectfully submitted,

YUEHUI ZHOU ET AL.

By


Todd E. Garabedian, Ph.D.
Registration No. 39,197
Attorney for Applicants

WIGGIN & DANA
One Century Tower
New Haven, CT 06508

Telephone: (203) 498-4400
Fax: (203) 782-2889

Date: 12 SEPT 2005

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EXHIBIT A**CYTEC**

RECEIVED

NOV 08 2004

CYTEC PATENT LAW

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Dig
Cytec
Dof N.Y. - PS - Cy Canada
Cy Canada - Fax - all Int. PS. (Enclosed)
Cytec Canada Inc.
Garner Road
P.O. Box 240
Niagara Falls, Ont. L2E 6T4
Tel.: (905) 356-9000

Billing and Phosphine

October 29, 2004

Tel # (905) 374-5872
Fax # (905) 374-5819
E-Mail Donato.Nucciarone@cytec.com

Cytec Patent Law Department
1937 West Main Street
P.O. Box 60
Stamford, CT
06904-0060

Attn: Mimi Sessa Hanzlik

Dear Mimi;

Enclosed are the Assignment release documents related to case Q2007-00. Three of the four required signatures were obtained. Our attempts to obtain the fourth signature that of Dr. Joey Zhou, met without success. The documents were sent to the address on my cover letter to him. Purolator was not able to deliver the package initially (no one to accept it) and held it for five business days before returning it to us. I am therefore returning these documents to you as they stand.

Best Regards

Donato Nucciarone
Manager R&D, Phosphine Technical Centre
DN/jg

Chen
Sp
Joey
Donato
DN/jg

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PACKAGE I.D. NO.
N° IDENT. COLIS

3 2 0 1 1 2 7 7 4 9 9 9

SENDER (FROM) / EXPÉDITEUR (DE)

PUROLATOR COURIER

Purolator

3104 97 ST

Edmonton, AB T6N 1K3

(888) 744-7123

RECEIVER (TO) / DESTINATAIRE (À)

CYTEC CANADA

161 GARNER RD

NIAGARA FALLS, ON L2E 6S5

(905) 356-9000

Y. ZHOU RTN 22724238930

BILL CHARGES TO
FACTURER ÀRECEIVER
DESTINATAIRWEIGHT / POIDS
SUBJECT TO AUDIT
SUJET A VERIFICATION

1 lb.

PIECES
PIÈCES

1 of/de 1

DATE
MO DU/JR YR/AN

10 27 2004

SERVICE OPTIONS / TYPES DE SERVICE



PuroPak.

PIN/NC 3 2 0 1 1 2 7 7 4 9 9 9

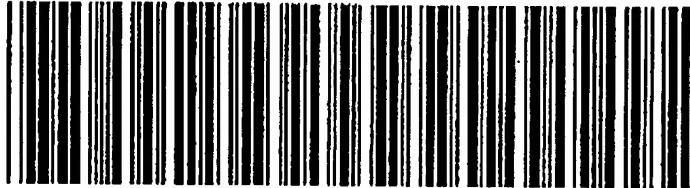
UNICODE

AIRPORT CODE / CODE D'AÉROPORT

SERVICE GUARANTEE
GARANTIE DE SERVICE

63

YYZ



old this Bill of Lading on the dotted line and insert it into the labelope. Attach a Bill of Lading to each package.

2208911027/20041140:42AM

euillez plier ce connaissement sur la ligne pointillée et l'insérer dans l'enveloppe autoadhésive. Veuillez joindre un connaissement à chaque colis.

escription:

Declared Value Entered By Sender / Aucune valeur déclarée entrée par l'expéditeur

CONDITIONS OF CARRIAGE

The contract for the carriage of goods contained in this Bill of Lading shall be deemed to include and be subject to the terms and conditions prescribed by law of the jurisdiction where the goods originate which are Newfoundland and Saskatchewan, the Motor Carrier Act of each such province; Nova Scotia, British Columbia and New Brunswick, the Motor Vehicle Act of each such province; Prince Edward Island, the Traffic Act; Quebec, the Transport Act; Ontario, the Truck Transportation Act; Manitoba, The Highway Traffic Act; Alberta and the Yukon, the Motor Transport Act for such province and Territory; Nunavut and the Northwest Territories, the Motor Vehicles Act for each such Territory; and any regulations to each of the above mentioned Acts. 2. It is mutually agreed, as to each carrier of, and as to each party at any time interested in, all or any of the goods, that every service to be performed hereunder shall be subject to all conditions not prohibited by law, whether printed or written, including the Conditions of Carriage contained in this Bill of Lading and Purolator Courier Ltd.'s Online Shipping Licence which are hereby agreed to by the consignor and accepted for himself and his assigns. In tendering the shipment described herein by the carrier, consignor agrees to those conditions of carriage which no agent or employee of the parties may alter and agrees that this Bill of Lading is non-negotiable and has been prepared by him or an agent contained, and that insertion of the consignor's name in print under "sender" on the face of this Bill of Lading shall be sufficient to constitute signature of this Bill of Lading by consignor. 3. Having arrived at the point of origin on the date specified, from the consignor mentioned herein, the property herein described, in apparent good order, except as noted (contents and conditions of contents of package known) marked, consigned and destined as indicated herein, the carrier agrees to carry and to deliver the property herein described to the consignee at the said destination, subject to the rates and classifications effect on the date of shipment. 4. The amount of any loss or damage for which the carrier may be liable shall not exceed \$2.00 per pound (or \$4.41 per kilogram) computed on the total weight of the shipment unless a higher value is declared by consignor in specially marked Purolator Online Shipping User entry field, 'Declared Value for Insurance (\$). 5. It is further agreed as a special agreement with respect to shipments, and notwithstanding any disclosure of the nature or value of the goods, the amount of any loss or damage, including without limitation, consequential, incidental or indirect damages including loss of earnings or profits, in any manner resulting whether or not from negligence or gross negligence, from loss of or damage to the goods and/or misdelivery, failure to deliver or delay in delivery of the goods, for which the carrier may be liable to the consignor, owner, consignee and/or any third party whether in contract, tort or otherwise, shall in no event exceed an amount equal to the carrier's maximum liability aforesaid. notwithstanding any other condition contained herein, the carrier is not financially responsible for the consequences of a delay in delivering a shipment by any particular time or for misdelivery or a failure to deliver. All claims are subject to proof of amount of loss. 6. The carrier reserves the right to substitute alternate modes of transportation for that selected by the consignor. Any exercise by the carrier of this right shall in no way affect the carrier's maximum liability aforesaid. 7. No carrier is liable for loss of, damage or delay to any goods carried, under this Bill of Lading unless notice is given setting out particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of such loss, damage or delay is given in writing to the originating carrier or the delivering carrier within sixty (60) days after the delivery of the goods or, in the case of failure to make delivery, within nine (9) months from the date of shipment. The final statement of the claim must be filed within nine (9) months from the date of shipment together with a copy of the paid freight bill. 8. No claim for damage will be entertained until all transportation charges thereon have been paid. The amount of claim may not be deducted from transportation charges. 9. The consignor agrees to pay the carrier all shipping charges in the event the receiver, on a collect shipment or the third party directly. 10. The carrier will not be liable for the transportation of certain prohibited or "At Shipper's Risk" items. For details contact the carrier directly. 11. Unless otherwise indicated, the consignor's name and address is the sender's name and address indicated on the face of this Bill of Lading, and the latter is the place of execution and of this Bill of Lading is the date of execution. 12. The consignor warrants that each article in each shipment will be properly described on the face of this Bill of Lading and on any accompanying documentation, that it is acceptable for transport by the carrier, and that the shipment is properly marked, addressed and packed to ensure safe transportation with the carrier's ordinary care in handling. 13. As used in this Bill of Lading "carrier" includes Purolator Courier Ltd., its subsidiaries and branches and controlled entities and their respective employees, agents and independent contractors. 14. The carrier shall not be liable for damages, loss, delays, shortage, misdelivery, non-delivery, misinformation or failure to provide information in connection with the shipment described on the face of this Bill of Lading caused by events the carrier cannot control, including, but not limited to, acts of God, perils of the air, weather conditions, mechanical delays, acts of public authorities (including customs or health officials) with actual or apparent authority.

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Cytec Canada Inc.
Garner Road
P.O. Box 240
Niagara Falls, Ont. L2E 6T4
Tel.: (905) 356-9000

October 18, 2004

Tel #(905) 374-5872
Fax #(905) 374-5819
E-Mail Donato.Nucciarone@cytec.com

Dr. Joey Zhou
#9 8228 Gateway Blvd.
Edmonton, Alberta
T6E 4B2

Dear Dr. Zhou:

Find enclosed assignment documents as relates to the patent filing: "Phosphonium and Imidazolium Salts and Methods of their Preparation". Additional information is provided in the cover letter to Al Robertson. Please sign at the indicated locations and return in the envelope provided.

sincerely,

Donato Nucciarone
Manager, Phosphine Technical Centre

DN/jg

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EXHIBIT B**Hanzlik, Mimi**

From: Hanzlik, Mimi
Sent: Wednesday, November 17, 2004 2:44 PM
To: 'yuehuizhou@hotmail.com'
Subject: Foreign Filing

Hi Joey's,

This is Mimi from Cytec Industries Inc. in Stamford, CT. I have some documents for your signature.
Please e-mail me your current address, as soon as possible, so I can forward them to you.

Title of Invention: Phosphonium and Imidazolium Salts and Methods of their Preparation
Authors: Yuehui Zhou, Allan Robertson, John Hillhouse and Douglas Baumann

Thank you in advance for your prompt attention to this matter.

Regards,

Mimi Sessa Hanzlik
Foreign Patent Administrator
Cytec Industries Inc.
937 West Main Street
Stamford, CT 06904-0060
SA

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EXHIBIT C**Hanzlik, Mimi**

From: Hanzlik, Mimi
Sent: Monday, November 22, 2004 10:58 AM
To: 'yuehuizhou@hotmail.com'
Subject: Foreign filing

Dear Joey,

Further to my phone message of even date, the following is the address I have for you
Is this address correct? I need to forward documents to you, for your signature.

Yuehui Zhou
105A Roncesvalles Avenue
Toronto, Ontario
M6R 2M6 Canada

Please response as soon as possible. Thank you.

Regards,

Mimi S. Hanzlik
Foreign Patent Administrator
Cytec Industries Inc.
937 West Main Street
Stamford, CT 06904-0060
ISA

Fax: 203 321-2971
Phone 203 321-2918

Phone# 46-297-9430

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